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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,732	12/26/2001	Frank E. Oetlinger	1548-00036	3842

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EXAMINER

LOPEZ, MICHELLE

ART UNIT PAPER NUMBER

3721

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/035,732	Applicant(s) OETLINGER, FRANK E.	
	Examiner Michelle Lopez	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 16-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed on April 26, 2004.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-3, and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Myers (US Pat. 6,659,927). Myers'927 discloses the invention including a flush-mounted presser assembly with a support member "12", a presser "14" moveable vertically, mounting means for operatively connecting the presser to the support member (see Figs. 1 and 2), a linkage assembly interconnecting the support and presser members via arms "16,18" having lower ends "28, 30" mounted to the presser "14", and biasing means via spring "32" disposed within a presser channel "46". The presser "14" has a rail member,

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wherein the rail member "46" is elongated and extends longitudinally parallel to the horizontal plane of the support member "12" (see col. 5, lines 1-7).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers (US Pat. 6,659,927) in view of Smith (US Pat. 707,803). Myers'927 discloses the invention substantially as claimed. Regarding claims 16-19, Myers'927 does not disclose a link having an upper end pivotally mounted to the arm "16,18" and a lower end pivotally mounted to the presser "14", wherein the pivotal mounting of the upper end of the link is located at the midpoint between the upper and lower pivotal mountings of the arm. However, Smith'803 teaches a link "6" having an upper end pivotally mounted to an arm "5" via "7", and a lower end "6" pivotally mounted to the presser, wherein the pivotal mounting "7" of the link "6" is located at the midpoint between the upper and lower pivotal mountings "5b,8" of the arm for the purpose of providing better support and stability between parts. In view of Smith'803, it would have been obvious to one having ordinary skills in the art to have modified Myers' invention by having a link "6" with an upper end pivotally mounted to the arm "5", and a lower end "6" pivotally mounted to the presser in order to obtain better stability.

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Regarding claims 16 and 20-22, Myers'927 does not specifically disclose that the lower ends "28,30" of the linkage arms "16,18" moves horizontally with respect to the support member "12" via a slider assembly disposed in the channel "46" of the presser "14". However, as can be seen in Figs. 1-3, the structural relationship between Myers'927 and the claimed features are substantially similar but provided in an opposite manner. In view of the prior art Myers'927, examiner takes Official Notice of the well-known act of modifying Myers' invention by disposing the slider assembly "62" within the presser channel "46" by connecting the slider assembly with the lower end "28,30" of the linkage arm "16,18" instead of providing the slider assembly "62" at the upper end "52,54" of the linkage arm "16,18" as a matter of design choice and as both configurations perform the same function of horizontally moving the presser "14" with respect to the support member "12". Therefore, in view of Myers'927, it would have been obvious to one having ordinary skills in the art at the time the invention was made to have provided a slider assembly within the presser channel by connecting the slider assembly with the lower end of the linkage arm in order to horizontally move the presser with respect to the support member.

Response to Arguments

4. The affidavit filed on April 26, 2004 under 37 CFR 1.131 has been considered but is ineffective to overcome the prior art reference.

5. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the prior art reference to either a constructive reduction to practice or an actual reduction to practice. It is not enough merely to allege that applicant or patent owner had been diligent. The dates of the exhibits shown by applicant or patent owner have been removed or blocked off. Therefore, applicant or patent owner must show evidence of facts establishing diligence.

6. The evidence submitted is insufficient to establish applicant's alleged actual reduction to practice of the invention in this country or a NAFTA or WTO member country after the effective date of the prior art reference. A general allegation that the invention was completed prior to the date of the reference is not sufficient. The applicant or patent owner must also show diligence in the completion of his or her invention from a time just prior to the date of the reference continuously up to the date of an actual reduction to practice.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

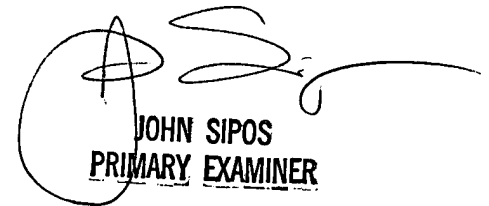
Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 703-305-8205. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9302.

11. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ML


JOHN SIPOS
PRIMARY EXAMINER